

Application No: 15/3380N

Location: Land South Of Royals Wood Farm, WHITCHURCH ROAD, ASTON

Proposal: Installation of ground mounted photovoltaic (PV) solar arrays to provide c.5MW generation capacity together with inverter houses, internal access track; landscaping; fencing; security measures; access gate; and ancillary infrastructure.

Applicant: INRG Solar Parks Ltd

Expiry Date: 10-Nov-2015

SUMMARY

The NPPF requires that Local Planning Authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources.

The proposal is contrary to development plan policies NE.2 (Open Countryside) and NE.12 (Agricultural Land) and therefore the statutory presumption is against the proposal unless material considerations indicate otherwise.

The most important material consideration is the NPPF which states at paragraph 98, that:

When determining planning applications, local planning authorities should:

- not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should also expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.

In this case, the benefits of the provision of a renewable energy source are considered to outweigh the limited impacts on landscape, ecology and highway safety which, it is considered will not be severe and can be mitigated by the use of conditions.

Balanced against the identified benefits must be the loss of an area agricultural land. Given the nature of recent appeal decisions, it is considered that it would be difficult to defend a reason for refusal relating to the loss of agricultural land.

Having regard to sustainability, including environmental, economic and social sustainability, the benefits of the scheme by virtue of the provision of a source of renewable, low carbon energy, are not outweighed by the limited harm to the landscape character of the area.

RECOMMENDATION:

On the basis of the above, it is considered that the application should be approved subject to conditions and a s106 Agreement.

PROPOSAL

The development would comprise 12,800 modules that would produce 3MW of electricity, which equates to the annual energy consumption of approximately 900 households. This would generate power and reduce carbon with an anticipated carbon dioxide displacement of 1,290 per annum.

The panel arrays would be south facing, set at an angle of 25 degrees. The front edge of the panels would be 0.65m above ground with the top edge being 2m above ground. Land between and beneath the panels are proposed to be used as biodiversity and enhancements, with the potential for grazing by sheep.

The arrays would be set within a 2m high security 'Deer' fence and there would be fifteen, 3m high CCTV cameras, a DNO cabin and switchgear cabin. The point of connection to the local electricity would be within the adjacent Combermere solar park.

Access would be taken from the A530 Whitchurch Road using the existing access road to Royals Wood Farm.

The development is proposed to be temporary in nature with a lifespan of 25 years.

SITE DESCRIPTION:

The site comprises the south eastern portions of two arable fields totalling 8.2 hectares. The south eastern boundary beyond the site is defined by a broadleaf hedgerow and trees, with the remainder surrounded by farmland. Footpath FP16 crosses the site north – south. The site is designated as being within Open Countryside in the adopted local plan.

To the south of the site in very close proximity, is the Combermere Abbey solar park (14/2247N,) which was approved by Strategic Planning Board in November 2014. That development has now been completed.

The whole site has been assessed as being 34.2% Grade 2, 24.4% Grade 3a, with 40.3% being classed as Grade 3b agricultural land. A small area of land to the north of the main site area was not surveyed. This area would provide the construction access route. An assessment has been made of the actual land area that would be covered with the solar panels and this was 17.2% Grade 2, 31.3% Grade 3a and 51.5% Grade 3b.

RELEVANT HISTORY:

14/2247N Approval for solar park (East of Combermere Abbey)

NATIONAL & LOCAL POLICY

National Policy:

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs 14 and 98.

Development Plan:

The Development Plan for this area is the Borough of Crewe and Nantwich Replacement Local Plan 2011, which allocates the site as being within Open Countryside.

The relevant Saved Policies are: -

BE.1 – Amenity
BE.2 – Design Standards
BE.3 – Access and Parking
BE.4 – Drainage, Utilities and Resources
BE.5 – Infrastructure
BE.6 – Development on Potentially Contaminated Land
BE.14 – Development Affecting Historic Parks and Gardens
BE.16 – Development and Archaeology
BE.21 – Hazardous Installations
NE.2 – Open Countryside
NE.5 – Nature Conservation and Habitats
NE.6 – Sites of International Importance for Nature Conservation
NE.7 – Sites of National Importance for Nature Conservation
NE.8 – Sites of Local Importance for Nature Conservation
NE.9 – Protected Species
NE.11 – River and Canal Corridors
NE.12 – Agricultural Land Quality
NE.17 – Pollution Control
NE.19 – Renewable Energy
NE.20 – Flood Prevention

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

Cheshire East Local Plan Strategy – Submission Version (CELP)

The following are considered relevant material considerations as indications of the emerging strategy:

PG2 – Settlement Hierarchy
PG5 - Open Countryside
PG6 – Spatial Distribution of Development
SD1 - Sustainable Development in Cheshire East
SD2 - Sustainable Development Principles
SE1 - Design
SE2 – Efficient use of Land
SE3 – Biodiversity and Geodiversity

SE4 – The Landscape
SE5 – Trees, Hedgerows and Woodland
SE6 – Infrastructure
SE7 – The Historic Environment
SE8 – Renewable and Low Carbon energy
SE9 – Energy Efficient Development
IN1 – Infrastructure
IN2 – Developer Contributions

Other Considerations:

The EC Habitats Directive 1992
Conservation of Habitats & Species Regulations 2010
Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System
Circular 02/99: Environmental Impact Assessment
Town and Country Planning (Environmental Impact Assessment) Regulations 2011

CONSULTATIONS:

Highways:

No objection.

Environmental Health:

Recommend a condition for a watching brief for contamination during excavation works.

Natural England:

No objection.

Historic England:

No objection.

Environment Agency:

No objection.

Cheshire Archaeology Planning Advisory Service:

No objection.

Newhall Parish Council:

The Parish have great concerns over the proposed access to the site during the period of construction. The position is on the very busy A530, opposite a busy industrial premises, with very poor visibility and in the location of school bus pick up's/drop offs. As such they recommend that alternative accesses be considered, notably the track by the power substation, or the entrance to the existing solar park which was used successfully to construct that very recently.

REPRESENTATIONS:

Neighbour notification letters were sent to adjoining occupants and site notices posted.

At the time of report writing three comments have been received relating to this application, these can be viewed in full on the Council's website. The comments raise the following concerns:

- Loss of open green land
- Dangerous access
- Adverse impact on highway safety
- Impact on the public right of way
- Opens the door for further development
- May become engulfed with solar panels
- Blight on the countryside
- No benefits to the residents of Newhall
- Impact on property values
- Disturbance to neighbours dogs

APPRAISAL:

The key issues to be considered in the determination of this application are set out below. They are the principle of the development, sustainability, renewable energy production, highways, amenity, agricultural land, heritage assets, landscape, trees, ecology, flood risk and archaeology.

Principle of Development

The proposed development should be considered against the National Planning Policy Framework (NPPF). This document identifies that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

The NPPF defines sustainable development and states that there are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles including economic, social and environmental.

The National Planning Policy includes the core planning principles of encouraging '*the use of renewable resources (for example, by the development of renewable energy)*' and '*recognising the intrinsic character and beauty of the countryside*'.

Paragraph 98 of the NPPF then goes on to state that local planning authorities should approve applications for energy development unless material considerations indicate otherwise if its impacts are or can be made acceptable.

There is further guidance within the Planning Practice Guidance which states as follows:

The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively. Particular factors a local planning authority will need to consider include:

- *encouraging the effective use of land by focussing large scale solar farms on previously developed and non agricultural land, provided that it is not of high environmental value;*
- *where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.;*
- *that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;*
- *the proposal's visual impact, the effect on landscape of glint and glare and on neighbouring uses and aircraft safety;*
- *the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;*
- *the need for, and impact of, security measures such as lights and fencing; great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset;*
- *the potential to mitigate landscape and visual impacts through, for example, screening with native hedges;*
- *the energy generating potential, which can vary for a number of reasons including, latitude and aspect.*

Local Plan Policy

The relevant policies relating to the principle of development, as contained within the Borough of Crewe and Nantwich Replacement Local Plan, are Policies NE.2 (Open Countryside) and NE.19 (Renewable Energy).

Policy NE.2 identifies that the open countryside should be protected for its own sake and that development should be kept to a minimum in order to protect its character and amenity. The policy states that:

'within the open countryside only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted'

The proposed development would be clearly contrary to Policy NE.2.

Policy NE.19 is considered to be consistent with the NPPF in that it is intended to ensure that such proposals cause minimum harm to the countryside, ensuring a quality environment for all residents of the Borough. Amongst other things policy NE.19 states that development will only be permitted where:

- *The development would cause no significant harm to the character and appearance of the surrounding area;*
- *The proposal includes effective measures to safeguard features or areas of particular landscape or nature conservation interest*

Emerging Policy

The most relevant policy of the Cheshire East Local Plan Strategy Submission version is Policy SE8 (Renewable and Low Carbon Energy) which states that *'the development of renewable and low carbon energy schemes (including community-led initiatives), together with any ancillary building(s) and infrastructure, will be positively supported and considered in the context of sustainable development and any impact on the landscape'*.

The Policy then goes on to state that weight will be given to the wider environmental, economic and social benefits arising from renewable and low carbon energy schemes, whilst considering the anticipated adverse impacts, individually and cumulatively upon:

'The surrounding landscape including natural, built, historic and cultural assets and townscape; including buildings, features, habitats and species of national and local importance and adjoining land uses'.

The justification to the Policy then goes on to identify the technologies that will be most viable and feasible including *'solar thermal and photovoltaics on south facing buildings throughout the Borough. Ground mounted schemes may be more appropriate where they do not conflict with other policies of the plan'*.

Need for Renewable Energy

In relation to need, paragraph 98 of the NPPF makes it clear that Local Planning Authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy.

Alternative Sites

The applicant has undertaken a site selection assessment. This concludes that there are no appropriate alternative sites that are sequentially preferable to accommodate the development proposal.

Conclusion

In this case the principle of the proposed development would be contrary to the Policy NE.2 contained within the Borough of Crewe and Nantwich Replacement Local Plan. However,

there is significant support within the NPPF and through the emerging policy for sustainable energy developments. As a result it is necessary to consider whether the proposal represents sustainable development and assess and if any other material considerations indicate if the development is acceptable.

Sustainability

There are three dimensions to sustainable development as highlighted within the NPPF - economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and

These roles should not be undertaken in isolation, because they are mutually dependent.

ENVIRONMENTAL ROLE

Renewable Energy Production

The development would comprise 12,800 modules that would produce 3.MW of electricity, which equates to the annual energy consumption of approximately 900 households. This would generate power and reduce carbon with an anticipated carbon dioxide displacement of 1,290 per annum.

This would contribute to tackling the challenges of climate change, lessening dependence on fossil fuels and benefiting energy security. These benefits would accord with the Framework's renewable energy provisions, which indicate that the delivery of renewable, low carbon energy is central to the economic, social and environmental dimensions of sustainable development.

Landscape

The application site is an 8.2 Ha area of farmland located just west of the A530 Whitchurch Road approximately 1.7Km south west of Aston. It lies immediately to the north of the recently constructed Combermere Abbey Solar Park which is now operational. The site comprises the southern parts of two irregularly shaped arable fields that are separated by a

mature hedgerow. The majority of the site lies to the west of the hedgerow with a smaller land parcel to the east. PROW Newhall FP16, which links Pinsley Green Road to the northwest to Whitchurch Road to the southeast, runs through the application site along the western side of the hedgerow then crosses a stile into the Combermere Abbey solar park site.

In the National Landscape Character Assessment the site lies within the Shropshire, Cheshire and Staffordshire Plain character area. In the Cheshire County Council LCA 2008 the site lies within the East Lowland Plain character type and the Ravensmoor character area. The character of the site itself was assessed and the character of the application site was found to be consistent with the surrounding landscape character.

The sensitivity of the landscape (i.e. its ability to accommodate the proposed change) considers landscape condition, value and rarity etc. The assessment finds the application site to be of medium susceptibility and medium value and consequently it is assessed as being of medium sensitivity to the development proposed.

The significance of effects on landscape elements and on landscape character is determined by combining the sensitivity with the magnitude of change. In this assessment, any effects identified as major adverse are considered significant effects with respect to the EIA regulations 2011.

The Land & Visual Impact Assessment (LVIA) finds that the proposed development would not have significant adverse effect on landscape elements or landscape character.

There would be significant major adverse visual impacts, including cumulative visual impacts, from the PROW Newhall FP16 and Royals Farm access track at year 1, but following the growth of the proposed new boundary hedgerows by year 5 these visual impacts would reduce to moderate adverse which is not significant.

After 25 years the development would be removed and the land returned to its original agricultural use. It is anticipated that there would not be any adverse residual impacts. The proposed new hedgerows may, in the long-term, result in a net beneficial effect.

The proposed development is immediately north of the Combermere Abbey solar farm and the combined area of the two sites would be 36.4 hectares which is quite extensive. The development would have an adverse impact on the character of the site itself but due to the screening provided by the woodland to the south, the topography of the area and the abundance of trees and hedgerows in the landscape the two sites would have relatively little impact on the visual character of the wider landscape.

The Combermere Abbey development is well screened and the cumulative visual impact of the two sites would only be observed from public footpath Newhall N16 and the private access track to Royals Wood Farm. However, footpath N16 is not currently well used, there is no worn path and it is not possible to cross Newhall Cut to reach Whitchurch Road because the vegetation along the stream is impenetrable.

Views towards the site from footpath N16 to the south of Newhall Cut and from Royalswood Cottages are screened by Brickbank Wood and the streamside vegetation though there may possibly be filtered views in the winter.

The eastern part of the proposed development would be visible from a short stretch of Whitchurch Road roughly between the Green Lane junction and Royalswood Cottages. There is a good roadside hedge with a couple of gaps through which the site would be visible. This road is very fast and there are no footpaths so any views through the hedge gaps would only be fleeting glimpses. When mature, the proposed hedgerow on the north-eastern site boundary would screen views from the road.

Trees and Hedgerows

There are no significant arboricultural implications associated with this application.

The panels occupy the open aspect of the agricultural fields and are set back from the existing vegetation associated with the southern boundary of the site. Any reduction in terms of light attenuation with the more mature trees is considered to be limited and can be managed under a pruning programme if required.

Part of the access to the site occupies ground presently used for agriculture which will have been subject to compaction and cyclical ploughing; it is not envisaged that any detrimental damage will be caused to the adjacent horticultural features.

The planting of a new native hedgerow is welcomed along with the infilling of existing gaps. Should the application proceed arboricultural conditions are not required.

Ecology

No evidence of a badger sett on or adjacent the site was recorded during the submitted surveys, badgers are however active within the site. It is recommended that if planning consent is granted a condition should be attached requiring an updated badger survey to be undertaken and submitted to the LPA if development does not commence within 12 months of the latest badger survey. To avoid any loss of access to suitable foraging habitats on site it is recommended that a condition be attached requiring the submission of proposals to provide suitable gaps to be provided for badgers under the proposed security fence.

A number of trees have been identified on site that have the potential to support roosting bats. These trees are located within the boundary hedgerows and so would not be affected by the proposed development.

A ditch with flowing water is located along the sites southern boundary which has some low potential to support Water Voles and Otters. A six metre buffer is proposed between the security fence and the ditch. No evidence of these two species was recorded and it is considered that they are unlikely to be present or affected by the proposed development.

Great Crested Newts have been recorded at a number of ponds within 250 of the proposed development. The cluster of ponds supports a medium sized meta-population of Great Crested Newts. No Great Crested Newt breeding ponds will be affected by the proposed

development and the terrestrial habitat lost as a result of the proposed development is of low value for this species. The proposed development could however, in the absence of mitigation, result in the killing or injuring of Great Crested Newts during the construction phase.

Considering the poor quality of the terrestrial habitat offered by the proposed development site, the submitted ecological report advises that the proposed development could potentially proceed without resulting in a significant risk of Great Crested Newts being killed or injured if the works are completed between 1st November and the 28th February when great crested newt are likely to be in hibernation outside the application boundary. If planning consent is granted it is recommended that a condition be attached limited operations on site to this period. Provided this condition is attached it is considered that there would not be a significant risk of an offence occurring under the Habitat regulations and the Council would not be required to have regard to the requirements of the regulations during the determination of the application.

Newhall Cut Local Wildlife Site (LWS) supports one of the few remaining populations of native Crayfish in Cheshire. The submitted ecological report identifies a potential impact on the cut resulting from the potential contamination/siltation of the watercourse as a result of ground disturbance during the construction phase. Outline mitigation measures are proposed and the submitted report recommends that these are included in a Construction Environmental Management Plan (CEMP). Consequently, it is recommended that if planning consent is granted this matter may be dealt with by means of a suitably worded planning condition.

Brown Hares have been recorded on site. It is considered that the proposed development is unlikely to have a significant adverse impact upon this species. However as with Badgers it must be ensured that suitable gaps are provided under the security fence to allow this species to have access into the site.

A number of bird species including those which are a priority for conservation have been recorded on site. Many of these species are associated with the hedgerow boundaries and would not be significantly affected by the proposed development. Two species, Skylark and Yellow Wagtail, are however associated with the open arable fields and so are likely to be affected by the proposed development. The site has been identified as being of district value for these two species. It may be that Yellow Wagtail will continue to nest amongst the solar panels but this is not certain. It is almost certain that that nesting habitat within the application site for Skylark would be lost as a result of the proposed development.

In order to compensate for loss of ground nesting bird habitat associated with the development the submitted ecological report recommends that the remaining area of the field not taken up by the solar arrays be farmed in such a way as to enhance its value for ground nesting birds. The full detail of how this will be managed will be contained within a Landscape and Ecological Management Plan (LEMP). This has not been finalised at the time of report writing and an update on this matter will be provided to members prior to the meeting.

Flood Risk

The part of the site containing the proposed panels lies entirely within Flood Zone 1, with other parts lying in the edge of Flood Zones 2 and 3. However no work other than farming activity will be undertaken in this area. The report concludes that the development would make a contribution to soil improvement and biodiversity and a significant reduction in run off from the site, bringing overall benefits to the environment and renewable energy.

The Council's Flood Risk Manager has assessed the proposals and has no objection subject to a condition requiring compliance with the details contained within the FRA.

Agricultural Land

Policy NE.12 of the Local Plan states that development on the best and most versatile agricultural land (Grades 1, 2 and 3A) will not be permitted unless:

- The need for the development is supported by the Local Plan
- It can be demonstrated that the development proposed cannot be accommodated on land of lower agricultural quality, derelict or non-agricultural land
- Other sustainability considerations suggest that the use of higher quality land is preferable

The National Planning Policy Framework highlights that the use of such land should be taken into account when determining planning applications. It advises local planning authorities that, 'significant developments' should utilise areas of poorer quality land (grades 3b, 4 & 5) in preference to higher quality land.

The Planning Practice Guidance states that Local Planning Authorities should consider *'where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be **necessary** and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.*

The guidance references a Ministerial speech of April 2013 by the Rt Hon Gregory Barker MP which includes the *statements "Solar is a genuinely exciting energy of the future, it is coming of age and we want to see a lot, lot more. But not at any cost... not in any place...."* And *"Where solar farms are not on brownfield land, you must be looking at low grade agricultural land which works with farmers to allow grazing in parallel with generation...."*

The whole site has been assessed as being 34.2% Grade 2, 24.4% Grade 3a, with 40.3% being classed as Grade 3b agricultural land. A small area of land to the north of the main site area was not surveyed. This area would provide the construction access route. An assessment has been made of the actual land area that would be covered with the solar panels and this was 17.2% Grade 2, 31.3% Grade 3a and 51.5% Grade 3b.

Therefore the proposed development would result in the temporary loss of a limited amount of good and moderate quality agricultural land for the 25 year lifetime of the proposed development.

A previous application at Land South of Wood Lane, Bradwall was before Strategic Planning Board in July 2015 (15/1541C). Members resolved to approve the application subject to a Section 106 Agreement relating to the restoration of the land. For application 15/2779N at

Dairy House Farm, Worleston, the applicants submitted a Unilateral Undertaking that made the same provisions as required by the s106 Agreement for the Bradwall application. It is considered that the same approach should be taken with this application.

ECONOMIC ROLE

The Framework includes a strong presumption in favour of economic growth.

Specifically, in relation to the rural economy the Framework identifies that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

“support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings”

The economic benefits of the development need to be balanced against the impact upon the open countryside and the loss of agricultural land.

The NPPF makes it clear that:

“the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.”

SOCIAL ROLE

Highways Implications

It is proposed to construct a solar park on land south of Royals Wood Farm with the access to the site using an existing track that links to Whitchurch Road.

Further information was requested from the applicant regarding the amount of construction traffic that would be accessing the site and also the visibility available at the main access at Whitchurch Road.

There are very little highway movements to and from the site once the site constructed the only trips that take place are maintenance vehicles.

The information provided by the applicant indicates that there will be a three month construction period and 182 deliveries using HGV’s will be made to the site, this totals 364 two way trips. As these trips are spread over a three month period the actual highway impact on Whitchurch Road will be minimal.

The submitted visibility plan indicates an acceptable level of visibility for the access and this should be a condition on any approval.

In summary, there is a relatively short construction period and the traffic impact will not have a material impact on the local road network, therefore the Head of Strategic Infrastructure has raised no objection to the development. The development is therefore considered to be acceptable in highway safety terms.

Amenity

Given the isolated rural nature of the site there are relatively few residential properties in close proximity to the application site. There would be some disruption caused during the development of the site; however it is considered that this would be limited and any noise and disturbance could be controlled by condition.

There would be a minor alteration to the outlook from a limited number of properties, however this is not considered to result in an oppressive or overbearing outlook and as such could not be sustained as a reason for refusal. As a result it is not considered that the proposed development would raise any significant issues relating to residential amenity.

According to information held by Environmental Protection, there is a Foot and Mouth burial pit from the 1967 outbreak on the north of the application site where a service trench is proposed. As such a condition has been recommended that would ensure an appropriate watching brief during excavation works and if during the course of development contamination is found, remediation measures to be implemented.

One of the objectors has raised the issue of police dogs that live in his garden being disturbed by increased activity and barking and getting stressed. This however could not form a reason for refusal of the application.

Public Rights of Way

The proposed development would have a direct effect on the Public Right of Way, which constitutes *“a material consideration in the determination of applications for planning permission and local planning authorities should ensure that the potential consequences are taken into account whenever such applications are considered”*. Whilst it is stated that the footpath is to be retained within the site it appears that it will run as a corridor between 2 metre high fences with the solar voltaic panels at their highest points at 2.1 metres beyond the fence. There is no specification of the width to be retained for the footpath. The access road will directly dissect the footpath and during the construction phase will be a health and safety issue to members of the public.

The impact on the Public Right of Way is considered acceptable, subject to conditions.

Impact upon the setting of the Local Heritage Assets

At the time of report writing a response has not been received from the Council's Conservation Officer. However; the adjacent solar park is in closer proximity to the nearest heritage assets at Combermere Abbey and in relation to that application, it was considered that there would be a less than significant temporary impact and a localised temporary impact on the setting of the Historic Park and Garden. Therefore, given that this is further

away, it is considered to be acceptable. In addition Historic England have raised no objection to the application.

Archaeology

The Environmental Statement submitted as part of the application contains a consideration of heritage issues.

The Assessment contains a consideration of the information held in the Cheshire Historic Environment Record and the results of an examination of the historic mapping, aerial photographs, place name evidence, and LIDAR imagery. It concludes that the archaeological potential of the site is low and that the development is unlikely to affect significant archaeological remains. No further archaeological mitigation is recommended and it is advised that this represents an appropriate conclusion.

CIL Regulations

In order to comply with the Community Infrastructure Regulations 2010 it is necessary for planning applications with planning obligations to consider the issue of whether the requirements within the S106 satisfy the following:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

Securing a bond for restoration after 25 years is considered necessary and reasonable in the context of the solar farm and taking account of the agricultural land matters directly relates to the development of the solar farm.

Response to Representations

The representations of the members of the public have been given careful consideration in the assessment of this application and the issues raised are addressed within the individual sections of the report. These issues are summarised in the representations and include impacts on landscape, open countryside, appearance, cumulative impact, highway safety and amenity.

Planning Balance

The proposal is contrary to development plan policies NE.2 (Open Countryside) and NE.12 (Agricultural Land) and therefore the statutory presumption is against the proposal unless material considerations indicate otherwise.

The most important material consideration is the NPPF which states at paragraph 98, that:

When determining planning applications, local planning authorities should:

- not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should also expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.

In this case, the benefits of the provision of a renewable energy source are considered to outweigh the limited impacts on landscape, ecology and highway safety which, it is considered will not be severe and can be mitigated by the use of conditions

Balanced against the identified benefits must be the loss of an area agricultural land. Given the nature of recent appeal decisions, it is considered that it would be difficult to defend a reason for refusal relating to the loss of agricultural land.

Having regard to sustainability, including environmental, economic and social sustainability, the benefits of the scheme by virtue of the provision of a source of renewable, low carbon energy, are not outweighed by the limited harm to the landscape character of the area.

On the basis of the above, it is considered that the application should be approved.

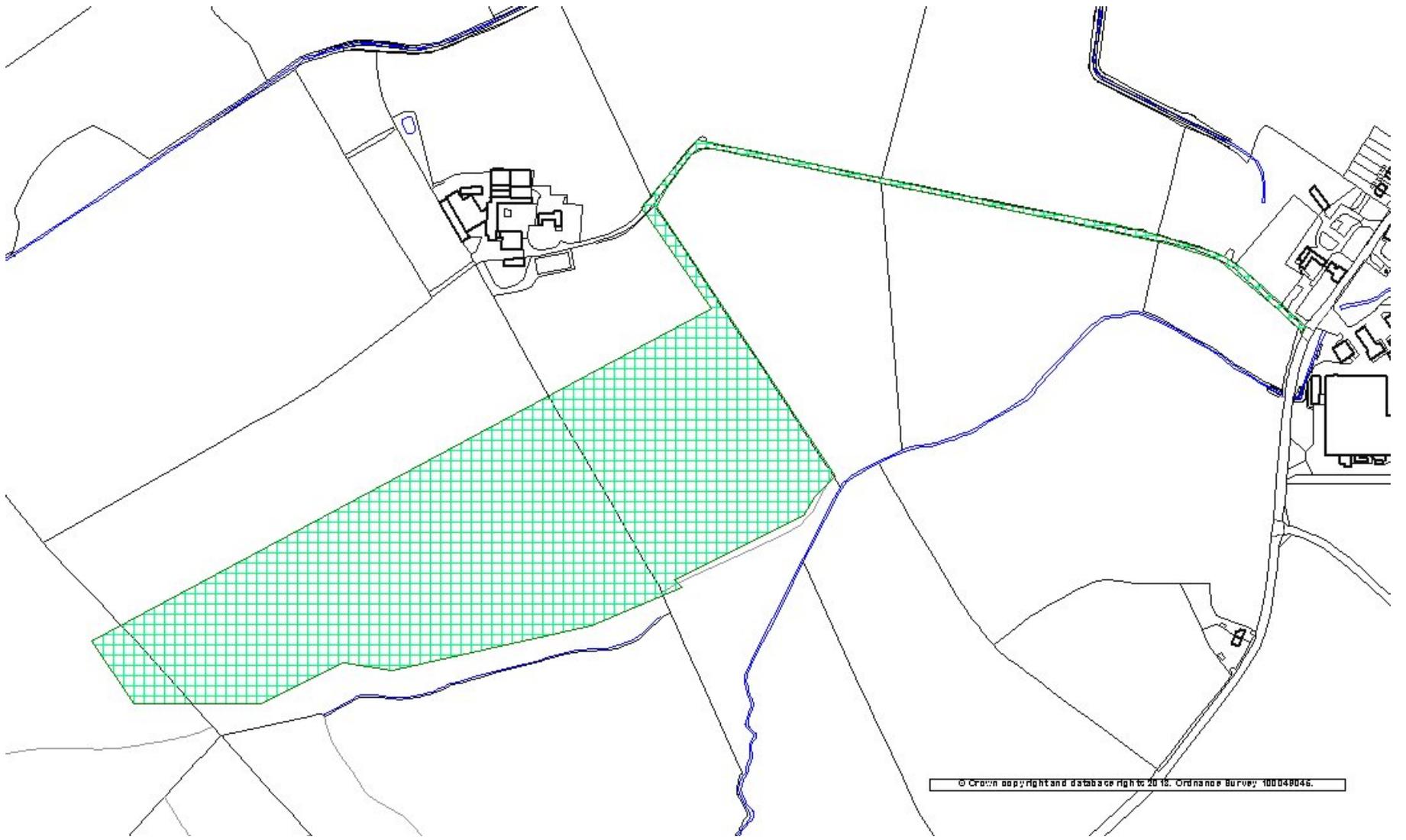
RECOMMENDATION

APPROVE subject to completion of a s106 legal agreement to secure a bond for the clearance and restoration of the land to agricultural use after 25 years.

- 1. Time limit**
- 2. Approved plans**
- 3. Submission of plans showing visibility splays of 2.4m x 120m**
- 4. Submission of landscaping scheme with planting specification for new hedgerow along northern boundary and details of seeding of the grassland habitats within solar arrays**
- 5. Implementation and maintenance of landscaping scheme**
- 6. Submission and implementation of a Landscape and Habitat Management Plan**
- 7. Submission and implementation of Construction Environment Management Plan**
- 8. Tree protection**
- 9. Tree retention**
- 10. Submission and implementation of full service/drainage layout**
- 11. Submission of report detailing the results of the contaminated land watching brief and any remediation works necessary**
- 12. Submission of and implementation of full details of solar arrays, fencing and all other equipment, including colour and finish**
- 13. Development completed between 1st November and 28th February in any year unless a mitigation statement to avoid Great Crested Newts has been submitted and approved**

- 14. Submission of an updated protected species survey and mitigation measures prior to the commencement of development**
- 15. Details of the provision of gaps in the security fencing to allow access for Badgers and Brown Hares**
- 16. Protection for breeding birds**
- 17. Provision of 2 Barn Owl boxes**
- 18. Development completed in accordance with the Flood Risk Assessment**

In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Planning (Regulation) has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Committee's decision.



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